

117TH CONGRESS  
1ST SESSION

# H. R. 5321

To require the Secretary of Veterans Affairs to address the inappropriate or unlawful denial by the Department of Veterans Affairs of benefits and services for former members of the Armed Forces who were discharged or released from the active military, naval, or air service under conditions characterized as neither dishonorable nor honorable, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2021

Ms. UNDERWOOD (for herself and Mr. PAPPAS) introduced the following bill;  
which was referred to the Committee on Veterans' Affairs

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## A BILL

To require the Secretary of Veterans Affairs to address the inappropriate or unlawful denial by the Department of Veterans Affairs of benefits and services for former members of the Armed Forces who were discharged or released from the active military, naval, or air service under conditions characterized as neither dishonorable nor honorable, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

## **1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Unlawful Turn-Aways  
3 Act of 2021”.

## 4 SEC. 2. ADDRESSING DEPARTMENT OF VETERANS AFFAIRS

5 TURN-AWAY PROBLEM.

6           (a) IMPROVING TRAINING, GUIDANCE, AND OVER-  
7 SIGHT OF DEPARTMENT OF VETERANS AFFAIRS  
8 STAFF.—

## 9 (1) TRAINING.—

9 (3) DESIGNATION OF POSITIONS.—

25 (b) REMEDY PAST UNLAWFUL TURN-AWAYS.—

1                             (1) ASSESSMENT, IDENTIFICATION, REC-  
2 OMMENDATIONS, AND REPORT.—Not later than one  
3 year after the date of the enactment of this Act, the  
4 Inspector General of the Department of Veterans af-  
5 fairs shall—

6                             (A) conduct an assessment of the practices  
7 of the Department involving denying benefits  
8 and services to individuals seeking such benefits  
9 and services from the Department based on a  
10 discharge or release from service in the active  
11 military, naval, or air service under conditions  
12 that were characterized as neither honorable  
13 nor dishonorable;

14                             (B) identify whether any denials described  
15 in subparagraph (A) were unlawful and the  
16 scope of such unlawful denials by the Depart-  
17 ment;

18                             (C) develop recommendations for legislative  
19 or administrative action to limit the occurrence  
20 of unlawful denials described in subparagraph  
21 (B); and

22                             (D) submit to Congress a report on the  
23 findings of the Inspector General under sub-  
24 paragraphs (A) through (C).

25                             (2) NOTICE.—

(A) IN GENERAL.—The Secretary shall—

(i) notify all individuals who were discharged or released from service in the active military, naval, or air service under conditions that were characterized as neither honorable nor dishonorable about their right to apply for health care and benefits from the Department; and

(ii) encourage individuals describe in clause (i) to apply for health care and benefits described in such clause, even if they have previously been denied or turned away from the Department.

(B) MANNER.—The Secretary shall carry out subparagraph (A) by sending individuals described in such subparagraph a letter to last known address on file with Social Security Administration.

### (3) OUTREACH.—

(A) PROGRAM REQUIRED.—The Secretary shall carry out a program of public outreach, including via the internet and through mailed notices, to covered individuals described in subparagraph (B) who may have been unlawfully denied a benefit or service from the Department

1           based on the characterization of their discharge  
2           or release from service in the active military,  
3           naval, or air service.

4           (B) COVERED INDIVIDUALS.—For pur-  
5           poses of this paragraph, a covered individual is  
6           an individual who was discharged or released  
7           from service in the active military, naval, or air  
8           service under conditions that were characterized  
9           as neither honorable nor dishonorable.

10          (C) CONTENTS.—Outreach carried out  
11          pursuant to the program required by subpara-  
12          graph (A) shall include distribution of informa-  
13          tion about what benefits and services covered  
14          individuals may be eligible for under laws ad-  
15          ministered by the Secretary of Veterans Affairs.

16          (D) MANNER.—Outreach under the pro-  
17          gram required by subparagraph (A) shall in-  
18          clude the follow methods of contact:

19                 (i) Traditional and social media.  
20                 (ii) Websites and blogs of the Depart-  
21                 ment.

22                 (iii) Informational brochures and fact  
23                 sheets.

24                 (iv) Community events.

1       (c) SIMPLIFYING ELIGIBILITY STANDARDS AND  
2 PROCESSES.—

3               (1) MODIFICATION OF DEFINITION OF VET-  
4 ERAN.—Section 101(2) of title 38, United States  
5 Code, is amended by striking “under conditions  
6 other than dishonorable” and inserting “, other than  
7 a person whose rights are barred by section 5303(a)  
8 of this title”.

9               (2) VETERANS JUSTICE OUTREACH PROGRAM  
10 SERVICES.—

11               (A) IN GENERAL.—The Secretary of Vet-  
12 erns Affairs shall ensure that services provided  
13 by the Veterans Justice Outreach Program are  
14 available to all individuals who served in the ac-  
15 tive military, naval, or air service, regardless of  
16 the nature of their discharge or release from  
17 such service.

18               (B) VETERANS JUSTICE OUTREACH PRO-  
19 GRAM DEFINED.—In this paragraph:

20                       (i) JUSTICE-INVOLVED VETERAN.—  
21                       The term “justice-involved veteran” means  
22                       a veteran with active, ongoing, or recent  
23                       contact with some component of a local  
24                       criminal justice system.

13       (d) DEFINITIONS.—In this section, the terms “active  
14 military, naval, or air service” and “veteran” have the  
15 meanings given such terms in section 101 of title 38,  
16 United States Code.

17 SEC. 3. MODIFICATION OF REQUIREMENTS RELATING TO  
18 ELIGIBILITY FOR CERTAIN COUNSELING  
19 SERVICES FROM DEPARTMENT OF VETERANS  
20 AFFAIRS.

21           (a) COUNSELING FOR MILITARY SEXUAL TRAUMA.—  
22 Section 1720I(b) of title 38, United States Code, is  
23 amended—

24 (1) in paragraph (4)—

(A) by striking subparagraph (B); and

(3) in paragraph (1), by striking “is a former member” and inserting “(A) is a former member”;

(4) by redesignating paragraphs (2) through (4) as subparagraphs (B) through (D), respectively;

10 and

11                   (5) by adding at the end the following new  
12 paragraph:

13       “(2)(A) is a former member of the Armed Forces,  
14 including the reserve components;

15        "(B) is not enrolled in the health care system estab-  
16 lished by section 1705 of this title; and

17        "(C) while serving in the Armed Forces, was the vic-  
18 tim of a physical assault of a sexual nature, a battery of  
19 a sexual nature, or sexual harassment (as defined in sec-  
20 tion 1720D(f) of this title).".

21 (b) COUNSELING IN VET CENTERS.—

(1) IN GENERAL.—Section 1712A(a)(1)(C) of such title is amended—

(A) by striking “individual who is a veter-  
eran or” each place it appears;

(2) CONFORMING AMENDMENTS.—

1 and inserting “clauses (i) through  
2 (vii)”;  
3 (II) by striking “clause (vii)”  
4 each place it appears and inserting  
5 “clause (viii)”;  
6 (III) in subparagraph (B)(ii)(II),  
7 by striking “veteran or member de-  
8 scribed in subclause (II)” and insert-  
9 ing “veteran or a member described in  
10 subclause (III)”;  
11 (ii) in subsection (g)(1), by striking  
12 “described in subsection (a)(1)(C)”.

(B) SUICIDE PREVENTION ASSISTANCE.—

1   **SEC. 4. OUTREACH TO AND STUDY ON TREATMENT OF**  
2                 **MEMBERS OF THE ARMED FORCES DIS-**  
3                 **CHARGED UNDER CONDITIONS OTHER THAN**  
4                 **HONORABLE FOR NO OTHER REASON THAN**  
5                 **SEXUAL ORIENTATION OR GENDER IDEN-**  
6                 **TITY.**

7         (a) **OUTREACH.**—The Secretary of Veterans Affairs  
8 shall conduct outreach to former members of the Armed  
9 Forces who were discharged from the Armed Forces under  
10 other than honorable conditions for no other reason than  
11 the sexual orientation or gender identity of the member  
12 pursuant to the Don't Ask, Don't Tell policy of the De-  
13 partment of Defense.

14         (b) **STUDY.**—The Secretary shall conduct a study to  
15 assess the scope and cost of providing health care under  
16 the laws administered by the Secretary to former members  
17 of the Armed Forces with other than honorable discharges  
18 who were discharged from the Armed Forces after serving  
19 on active duty in the Armed Forces for less than two years  
20 for no other reason than the sexual orientation or gender  
21 identity of the member, whether pursuant to the Don't  
22 Ask, Don't Tell policy of the Department or not.

